

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4925 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

RAMABEN J THAKAR

Versus

KARAMANBHAI B FALDU

Appearance:

MR AR THAKKAR FOR MR JR NANAVATI for Petitioner

MR AJ SHASTRI for Respondent No. 1

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/08/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioner, a headmaster in the school run by
respondent No.1-trust came to be placed under suspension

in contemplation of departmental inquiry. The trust has approached the District Education Officer for rectification of this order of suspension. The District Education Officer concerned has declined to rectify that order. The respondent No.1-trust filed application No.329 of 1989 before the Gujarat Secondary Education Tribunal at Ahmedabad challenging therein the order of the District Education Officer, declining to rectify the order of suspension passed by respondent No.1 against the petitioner. In that application, an application has been filed for grant of interim relief. However, under the order dated 3.7.89, the Tribunal has declined to grant interim relief. The Tribunal has made it clear that it is open to the school-trust to forbid the petitioner from coming to school except for the purpose of inquiry when she is called on condition that the employee and employer relationship shall subsist and she has to be paid full salary and her other conditions of service shall also remain intact. Though this order was in favour of petitioner, she has filed this special civil application and prayed therein for quashing and setting aside this order. Prayer has also been made for interim relief which has not been granted by the court on the ground that she is not likely to cause any pecuniary loss and inconvenience by the order as she will get salary without performing duties.

#. The learned counsel for respondent No.1 submitted that there are very serious charges against the petitioner and to avoid her ultimate dismissal from services, on proof of the same, this petition has been filed and prayer is made for reliefs aforesaid.

#. Be that as it may, the inquiry was completed against the petitioner and ultimately she was dismissed from services by respondent No.1 under the order dated 20.2.95. Against this order, she filed application No.304 of 1991 and it is said to be pending till date. This petition is wholly misconceived and in fact, an attempt to waste valuable and precious time of the court. The order passed by the Tribunal which is challenged in this special civil application has not resulted in causing any pecuniary loss to the petitioner. Option was given to the respondent to take work or not to take work from the petitioner but she has to be paid salaries. From this order, the petitioner cannot be said to be aggrieved of the same. I find some substance in the contention of learned counsel for respondent No.1 that to stall departmental inquiry, this petition appears to have been filed. The Tribunal has given liberty to the management to proceed with the inquiry and permit the

petitioner to go to the school to attend the inquiry. But for to stall the departmental inquiry, no other purpose would have been there with the petitioner to file this petition before this court. Otherwise also, the petitioner has been dismissed from services of the school after the charge framed against her was found proved in inquiry. This petition, in fact and substance, has become infructuous.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, stands vacated. It is a case where the petitioner has dragged the respondent No.1 in litigation which was otherwise wholly uncalled for and avoidable. The trust has to incur heavy expenses of litigation as what the learned counsel for the respondent No.1 states that he has charged Rs.4,000/= as fees for professional services to respondent No.1 I consider it to be a fit case where the petitioner has to pay this cost of litigation to respondent No.1. The petitioner is directed to pay Rs.4,000/= as costs of this petition to respondent No.1.

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(sunil)